

JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

BRIAN J. STRETCH (CABN 163973)
Chief, Criminal Division

DEBORAH R. DOUGLAS (NYBN 2099372)
Assistant United States Attorney

1301 Clay Street, Suite 340S
Oakland, California 94612
Telephone: (510) 637-3680
Facsimile: (510) 637-3724
E-Mail: deborah.r.douglas@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. 4-05-70138 WDB
)	
Plaintiff,)	STIPULATION AND ORDER FOR
)	CONTINUANCE, EXTENSION OF TIME
v.)	TO CONDUCT PRELIMINARY
)	HEARING UPON DEFENDANT'S
ARTUR ROBER ROGOWICZ,)	CONSENT UNDER RULE 5.1(d), AND
)	EXCLUSION OF TIME UNDER THE
Defendant.)	SPEEDY TRIAL ACT, 18 U.S.C. § 3161
)	<u>ET SEQ.</u>

Plaintiff United States of America, by and through its counsel of record Assistant United States Attorney Deborah R. Douglas, and defendant Artur Rober Rogowicz ("defendant"), by and through his counsel of record Alan A. Dressler, Esq., hereby stipulate as follows:

1. On February 25, 2005, an arrest warrant was issued based upon a criminal complaint charging defendant with knowingly distributing MDMA (ecstasy), in violation of 21 U.S.C. § 841(a)(1). On March 5, 2009, defendant was initially presented on the criminal complaint, and time under the Speedy Trial Act, 18 U.S.C. § 3161 et seq., was excluded from March 5, 2009 through March 10, 2009. On March 10, 2009, the parties agreed that defendant should be released on a \$150,000 bond signed by a surety. Defendant waived the timing of the preliminary hearing and agreed to an exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161 et seq., from

STIPULATION AND ORDER

1 March 10, 2009 through April 21, 2009. With defendant's consent and upon a showing of good
2 cause, this Court extended the time limit for a preliminary hearing under Rule 5.1(d) and excluded
3 time under the Speedy Trial Act from March 10, 2009 through April 21, 2009.

4 2. By order dated April 20, 2009, this Court approved the parties' stipulation to
5 continue this matter to May 26, 2009, and excluded time from April 21, 2009 through May 26,
6 2009 under the Speedy Trial Act. The timing of a preliminary hearing or arraignment on an
7 information or indictment was also waived.

8 3. The parties stipulate and request that this matter be continued for one week from
9 Tuesday, May 26, 2009, to Tuesday, June 2, 2009, at 10 a.m. Defendant's attorney, Alan A.
10 Dressler, is not currently available to appear in magistrate court on May 26, 2009. In addition,
11 the requested one-week continuance will allow the parties to further explore the factual and legal
12 issues in this case and any interest of justice factors that may be considered in resolving this matter
13 without the necessity of a preliminary hearing or indictment. The parties believe that the granting
14 of additional time as requested will expedite the resolution of this matter, conserve judicial
15 resources, and benefit both the defendant and the government in reaching a fair and appropriate
16 disposition of this case.

17 4. For the foregoing reasons, the parties stipulate and agree that good cause exists to
18 extend the time limit for conducting a preliminary hearing or arraignment on an indictment or
19 information from May 26, 2009 to June 2, 2009 under Rule 5.1(d) of the Rules of Criminal
20 Procedure. The parties therefore stipulate and agree that the time from May 26, 2009 through
21 June 2, 2009 should be excluded in computing the time within which an information or indictment
22 must be filed pursuant to 18 U.S.C. §§ 3161(b) and (h). The parties further agree that the ends of
23 justice served by the continuance requested outweigh the best interests of the public and the
24 defendant in a speedy trial because the failure to grant such a continuance would unreasonably deny
25 the defendant continuity of counsel and adequate time to prepare, taking into account the exercise
26 of

1 due diligence, under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B)(iv). The parties
2 therefore stipulate and agree that the time from May 26, 2009 through June 2, 2009 should be
3 excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

4
5 Dated: May 22, 2009

/s/
DEBORAH R. DOUGLAS
Assistant United States Attorney

7
8 Dated: May 22, 2009

/s/
ALAN A. DRESSLER, Esq.
Attorney for Defendant

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
STIPULATION AND ORDER

ORDER

With the defendant's consent and upon a showing of GOOD CAUSE as set forth in the stipulation of the parties above in *United States v. Artur Rober Rogowicz*, CR05-70138 WDB, taking into account the public interest in the prompt disposition of this matter, the Court hereby extends the time limit for conducting a preliminary hearing from May 26, 2009 to June 2, 2009 at 10 a.m., pursuant to Rule 5.1(d) of the Rules of Criminal Procedure. This Court further finds that the ends of justice served by granting of the requested continuance to June 2, 2009 outweigh the best interests of the public and the defendant in a speedy trial, and that the failure to grant the requested continuance would deny defendant continuity of counsel and the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

Based on these findings, IT IS HEREBY ORDERED THAT this matter, currently scheduled for May 26, 2009, shall be continued to June 2, 2009 at 10 a.m. for a preliminary hearing or arraignment on an information or indictment, and that the time from May 26, 2009 through June 2, 2009 shall be excluded in computing the time within which an information or an indictment must be filed pursuant to 18 U.S.C. §§ 3161(b) and (h). IT IS FURTHER ORDERED that the time from May 26, 2009 through June 2, 2009 shall be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

IT IS SO ORDERED.

Dated: May 22, 2009



HONORABLE WAYNE D. BRAZIL
United States Magistrate Judge

STIPULATION AND ORDER